

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PARNELL SEATON,

Plaintiff,

vs.

GOOD and
BERTHIAUME,

Defendants.
_____ /

Civil Action No.
08-CV-10549

HON. BERNARD A. FRIEDMAN

**OPINION AND ORDER ACCEPTING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION and
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

This matter is presently before the court on defendants' motion for summary judgment [docket entry 13]. Plaintiff has filed a response in opposition. Magistrate Judge Virginia M. Morgan has submitted a report and recommendation ("R&R") in which she recommends that the motion be granted. Plaintiff has filed timely objections to the magistrate judge's R&R.

The facts of the case are summarized in the R&R and need not be repeated here. In short, plaintiff alleges that a hearing investigator (Good) and a sergeant (Berthiaume) violated his due process and equal protection rights, and interfered with his right of access to the courts, in connection with misconduct charges, and the hearing on those charges, arising from an altercation between plaintiff and another inmate. A hearing officer found plaintiff guilty of major misconduct (fighting, possessing a weapon, assaulting staff) and sentenced him to two and one-half months' detention. The magistrate judge recommends that defendants' summary judgment motion be granted because (1) all of plaintiffs' claims are barred by the Eleventh Amendment insofar as plaintiff is suing defendants in their official capacities; (2) the due process claim fails because the misconduct hearing was constitutionally fair; (3) the access to the courts claim fails because plaintiff has not shown defendants interfered with his ability to seek review in state court of the misconduct

findings; and (4) the equal protection claim fails because plaintiff has not identified himself as a member of a suspect class or shown how he was treated differently than others.

While plaintiff objects to practically every line of the 29-page R&R, he fails to show that the magistrate judge's analysis of the legal issues is in any way incorrect. Significantly, plaintiff concedes at page 10 of his objections that he "is neither challenging the factual determinations that were made at the formal disciplinary hearings nor the outcome of the formal disciplinary hearings." This statement ends the case. As plaintiff acknowledges that both the facts regarding the misconduct charges and the outcome (i.e., the order of detention) were correct, there is no basis for him to complain that any of his constitutional rights were violated. Accordingly,

IT IS ORDERED that the magistrate judge's R&R is accepted and adopted as the findings and conclusions of the court.

IT IS FURTHER ORDERED that defendants' motion for summary judgment is granted.

IT IS FURTHER ORDERED that any appeal in this matter would be frivolous and that plaintiff therefore may not proceed on appeal in forma pauperis.

Dated: October 14, 2008
Detroit, Michigan

S/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
CHIEF UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document
was served upon counsel of record by electronic and/or first-class mail.

S/Carol Mullins
Case Manager to Chief Judge Friedman